

MINUTES
REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
Monday, August 18, at 9:00 a.m.
State Capitol Building, Room 303
Helena, MT

PRESENT: Governor Brian Schweitzer, Superintendent of Public Instruction Linda McCulloch, and Secretary of State Brad Johnson.

VIA TELEPHONE: Auditor John Morrison

ABSENT: Attorney General Mike McGrath

Mr. Morrison moved for approval of the minutes from the July 21, 2008, meeting of the Board of Land Commissioners. Seconded by Ms. McCulloch. Motion carried unanimously.

BUSINESS CONSIDERED:

808-1 DOC: APPLICATION FOR ACQUISITION

Ms. Sexton stated this is for approval for an acquisition by Department of Corrections. DOC proposes to acquire three lots adjacent to the Montana Women's Prison. The lots contain abandoned structures that were once residential lots. The lots have created security issues for the prison. DOC signed a buy/sell with the owner for \$95,000, contingent upon Land Board approval.

Motion made by Ms. McCulloch to approve the acquisition by the DOC. Seconded by Mr. Johnson. Carried unanimously

808-2 REQUEST FOR CORRECTIVE DEED – OLD PINE HILLS CAMPUS

Ms. Sexton stated this is a request for a corrective deed for the Pine Hills Campus, which was transferred to Custer County under Section 77-2-351, MCA. The deed correction would expand use for recreational opportunities for the public and include the purpose to which the property can be used.

Val Wilson, Department of Corrections, stated DOC has no use for the property and has transferred it to the county for public purpose.

Governor Schweitzer asked what type of recreation was being considered?

Ms. Sexton stated the county wanted to create a public swimming pool and batting cages.

Motion made by Mr. Johnson to grant the corrective deed. Seconded by Ms. McCulloch. Carried unanimously.

808-3 YELLOWSTONE RIVER RANCH ESTATES DISCLAIMER OF INTEREST

Ms. Sexton stated this is for a disclaimer of interest to the Yellowstone River Ranch Estates regarding a 33-acre tract of accreted land adjacent to the Yellowstone River. The DNRC conducted a geological review and determined that the state does not own the land, and that it has been accreted to private lands. The disclaimer of interest will help clarify the title status for the lands.

Motion made by Ms. McCulloch to approve the disclaimer of interest. Seconded by Mr. Johnson. Carried unanimously.

808-4 PRELIMINARY APPROVAL FOR LAND BANKING ACQUISITION: CHAMBERLAIN CREEK

Ms. Sexton stated this is preliminary approval for 14,500 acres at Chamberlain Creek, which is currently owned by the Nature Conservancy. The DNRC will be working with FWP, who holds a conservation easement. The parcel has timber value estimated at three million board feet (MBF) per acre, grazing lease opportunities, and public access.

Motion made by Mr. Johnson to grant preliminary approval for the acquisition. Seconded by Ms. McCulloch.

Governor Schweitzer asked about the specific details of the conservation easement?

Ms. Sexton stated that the specific details regarding the conservation easement, including a "no development" clause, were in discussion with FWP—pending Land Board approval.

Motion carried unanimously.

808-5 REAL ESTATE MANAGEMENT PROGRAM PROPOSED RULEMAKING

Ms. Sexton stated this is to approve initiation of the administrative rulemaking process for the Real Estate Management Plan based on the Record of Decision from the July 2005 PEIS. The proposed rules look at the evaluation process used for real estate development; how the land is accounted for; limits on how much land may be divided; the monitoring; and processes for developing the programmatic EIS. A public hearing will be held in October, with final adoption of the rules in November.

Motion made by Ms. McCulloch to approve the initiation of the rulemaking process. Seconded by Mr. Johnson. Carried unanimously.

808-6 METALLIFEROUS LEASE APPLICATION

Ms. Sexton stated this is a metalliferous lease application for the mining of gold and assorted minerals near Libby, Montana. The DNRC recommended a rental of \$3.00 per acre for the first year; \$1.00 per acre the second and third years; \$2.50 per acre for the fourth and fifth years; and \$3.00 per acre each year thereafter, with a royalty rate of eight percent. Attached stipulations will require the lessee to submit a plan of operations prior to any exploration or mining.

Motion made by Mr. Johnson to approve the metalliferous lease application. Seconded by Ms. McCulloch.

Governor Schweitzer asked how much the royalty rate would be for a mining lease on federal lands.

Ms. Sexton stated the federal government would receive zero royalties.

Motion carried unanimously.

808-7 APPROVAL FOR COMMUNITIZATION AGREEMENTS:

Item 808-7 was considered as a block.

Ms. Sexton stated that shallow gas well oil and gas development frequently utilizes communitization agreements with adjoining land owners in order to gain value for the land

and be efficient in the drilling process. The actual drilling might not be located on state-owned land.

A. STATE 22-8-36-15B WELL

Ms. Sexton stated that the DNRC would receive 3.125 percent of gas production for the well. The well is located on state land.

B. VERPLOEGEN-STATE-FEDERAL 14-11-34-15B WELL

DNRC would receive 4.69 percent of production for the well. The well is not on state land.

C. BUD STATE 15-11-36-15 WELL

DNRC would receive 6.25 percent of gas production.

Motion made by Ms. McCulloch to approve the 808-7A through 808-7C. Seconded by Mr. Johnson.

Governor Schweitzer asked if the DNRC would receive any royalties if drilling occurred on private land if the Land Board did not approve the communitization agreements?

Ms. Sexton if the state did not lease the land, the state would not be considered in a communitization agreement, even if successful drilling occurred on adjacent land.

Governor Schweitzer asked how many wells per acre for natural gas were permitted by statute?

Monte Mason, DNRC Minerals Management Bureau Chief, stated that statewide spacing is one well per section (one section equals 640 acres). Special permits may be granted to allow four wells per section.

Governor Schweitzer asked if the spacing requirements were due to the tendency of natural gas to flow geologically to the drilling site?

Mr. Mason affirmed that because gas flows through rocks, one well is able to drain a larger area.

Governor Schweitzer asked if it were possible for wells to be established on private land that would allow natural gas located under state owned land to be accessed?

Mr. Mason stated that the spacing requirements do not prohibit that possibility. In this instance, the Board of Oil and Gas Conservation would advise the state to drill on its own land to develop the resource. The BOGC is charged with preventing the drilling of unnecessary wells and to protect correlative rights.

Governor Schweitzer asked if the state has not already leased the land, could the state elect to communitize at a later date?

Mr. Mason replied there are very few options available to do this, and those are usually reserved for occasions when mineral owners cannot be located. In this instance, the royalty rate is less than the rate granted to the DNRC when the land is leased.

Motion carried unanimously.

808-8 TIMBER SALES:

808-A through 808-C were considered as a block

A. BUGCHUCK TIMBER SALE (SALVAGE)

This timber sale has two harvest units—totaling 209—acres that have extensive pine beetle infestation. Roads would be built for accessing this and other bug-killed lands, resulting in a low per ton estimate. Many future timber sales will be focused on salvage harvest in areas destroyed by pine beetle infestations.

B. LYONS CREEK #1 TIMBER SALE

This timber sale of 239 acres will be accessed through a private property road.

C. NORTH ELLISTON TIMBER SALE (SALVAGE)

This timber sale north of Helena contains 113 acres of lodge pole pine and a little over 826 MBF.

Motion made by Mr. Johnson to approve the 808-8A through 808-8C. Seconded by Ms. McCulloch. Carried unanimously.

Items 808-8D and 808-8E were considered as a block.

D. SMALL LOST TIMBER SALE

Ms. Sexton stated these are the remaining two timber sales proposed from the Three Creeks EIS. The sales had been postponed to permit additional tours. The tours were comprised of interested parties, community residents, and industry representatives. One of the results of the tour was to encourage the DNRC to be more aggressive in regards to wildlife monitoring and impact. The Small Lost sale addressed community concerns about small projects allowing local parties the opportunity to bid. This unit treats 15 acres of old growth that will no longer meet old growth criteria when the harvest is complete, but will address forest health concerns.

E. THREE CREEKS #3 TIMBER SALE

This timber sale contains seven harvest units for 6 MBF on 460 acres. Two hundred forty-two acres will continue to meet old growth criteria post-harvest. Post-harvest wildlife management and impact will be examined for all Three Creeks timber sales.

Motion made by Mr. Johnson to approve 808-8D through 808-8E. Seconded by Ms. McCulloch.

Governor Schweitzer asked why the 15 acres of the Small Lost timber sale would no longer be considered old growth, post-harvest?

Tom Schultz, DNRC Trust Land Management Administrator, stated that the criteria that define old growth involve considering the habitat and the number of large live trees that are older than 180 years. The DNRC defines old growth as having eight trees per acre that are older than 180 years. Post-harvest, the Three Creeks #3 timber sale will not have enough large, live trees to meet the definition of old growth.

Governor Schweitzer inquired about the chronology of the interested party tours?

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Ms. Sexton stated that the DNRC offered five tours, beginning two years ago and concluding earlier this year. The initial tours consisted mainly of local residents. The final two tours were designed to allow interested parties to examine post-harvest impact. The tours were attended by 60 to 80 people.

Mr. Morrison asked if there has been any dialogue or feedback from tour attendees regarding the impacts of Three Creeks #1 and #2?

Ms. Sexton stated that she attended the most recent tour and that wildlife management was the foremost concern raised.

Mr. Morrison asked if the DNRC had been responsive in addressing the feedback that has been received as a result of the tours?

Ms. Sexton stated the discussions with the public have been good. A tour was specifically arranged for interested parties from Trout Unlimited and other fisheries. The tour resulted in discussions concerning fisheries and streamside management in timber sale areas, and ways to improve upon them.

Mr. Morrison asked if the DNRC is proceeding in a different manner as a result of these tours?

Ms. Sexton stated the EIS process and the development of additional tours showed the DNRC to be very responsive. Future tours will be arranged to continue to allow interested parties to inspect post-harvest results.

Mr. Morrison referenced the previous Three Creeks sales, noting that the minimum bids have decreased with each successive sale. He also noted the extensive damage done to state forests as a result of the pine beetle infestations, and asked why the DNRC was electing to hold timber sales in old growth areas rather than focusing exclusively on salvage sales—particularly with the decreasing bid requirements?

Ms. Sexton said that the Swan area forests have specific health issues that ought to be addressed, including mistletoe, root-rot, and other forest health issues. The DNRC and other foresters believe that the forest health would be compromised if left untreated. Timber sale revenues have decreased as a result of the waning housing market. The recession has been detrimental to communities and mills. Consistent, sustained-yield timber harvests from the will continue to support the local economies and mills.

Mr. Morrison asked what the obligation of the state land trustees will be in order to address the needs of the timber industry when the revenue generated might not serve the best interest of the trust?

Ms. Sexton said that the DNRC examines the long term benefits when considering timber harvests: evaluating what might be accessible in the coming decades. She noted that there are no longer mills in Colorado and New Mexico, and expressed concern that it is vital to sustain both the mandate of the trust and viability of the timber industry and local economies. The DNRC supplies ten percent of the timber harvests in Montana, showing it to be a small, but dependable timber source.

Mr. Morrison asked if the DNRC's position was to sometimes sell trust assets when the price is low in order to ensure that demand continues to be there when the prices have then increased?

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Ms. Sexton stated that the Land Board has seen the cyclical nature of the natural resource market. If the trust were to halt sales as a result of low prices, the infrastructure that supports the trust might not be in place when the prices increase.

Mr. Morrison expressed concern about approving (to his knowledge) the largest timber sale in the history of the Land Board at a time when the prices are the lowest.

Ms. Sexton stated that this sale was initiated three years ago when prices were at their highest point.

Governor Schweitzer cited the increasing number of red trees across the state and noted it is in the best interest of the Land Board to endeavor to harvest the timber while it still retains some value.

Mr. Schultz stated that the number of red trees are unprecedented in the history of Montana. The DNRC is aware of the increasing need to harvest while the timber retains some value. The DNRC is also aware of the need to thin green stands in order to stave off beetle activity, and continue to generate revenue for the trust.

Ms. McCulloch asked how long it had been since the Land Board approved a green timber sale that had not been prompted by fire or salvage?

Mr. Schultz answered that many sales have various components include both salvage and green harvest. The DNRC endeavors to be proactive in harvesting to maintain healthy stands and capture the value from dead and dying stands.

Ms. Sexton pointed out that there are other forest health issues such as mistletoe or overcrowding, as well as beetle infestation.

Mr. Johnson stated the Land Board should not speculate on future market values at the expense of managing the forests.

Motion to approve 808-8D and 808-8E carried unanimously.

808-9 RIGHT-OF-WAY APPLICATIONS

Ms. Sexton stated that the right-of-way applications are for historic access for several county roads and navigable waterways. Included is easement for the Department of Transportation on the Blackfoot River.

Motion made by Ms. McCulloch to approve the rights-of way-applications. Seconded by Mr. Johnson.

Mr. Johnson asked what is the total revenue generated by these rights-of-way?

Ms. Sexton stated that the revenue numbers were not available at this time, but that they could be obtained as requested. Revenue numbers can be included on future Land Board summary sheets.

Motion carried unanimously.

PUBLIC COMMENT:

SEPTEMBER OIL AND GAS LEASE SALE: BOULDER, SHIELDS, AND YELLOWSTONE RIVER TRACTS

Scott Bosse, Aquatic Conservation for the Greater Yellowstone Commission Director, stated the coalition's concern over the proposed lease sales. Congress is currently funding a cumulative effect study of the Yellowstone Corridor, as well as a special area management plan. Part of the reason over concerns about riverside development and bank stabilization activity. Due to the study, there is little sense in proceeding with oil and gas lease sale along the Yellowstone River.

There are also several FWP access sites along the proposed lease sale area. The 2007 legislature appropriated additional funding to expand access sites to benefit sportsmen. Leasing sites for oil and gas exploration in these areas would be inadvisable.

Section 5101 is located in an area where the coalition teamed with FWP on two future fisheries projects. A great deal of state money was spent improving the spawning habitat of Yellowstone trout. The coalition requested that these tracts be withdrawn from the lease sale for a period of six months in order to allow the public to be informed of the proposals and concerns; allow time for FWP comments can be absorbed and comprehended; and to wait until a sensible statewide policy for oil and grass drilling can be developed.

Governor Schweitzer stated that some of the questions people have could be in regard to state ownership of minerals underneath Montana's rivers. The concern is that leasing riverbeds for oil and gas exploration would result in rigs drilling in the middle of the Yellowstone River. Governor Schweitzer referenced the earlier discussion about communitization (808-7), and stated that if a river happens to flow through a portion of a privately owned section of land, and that section is leased for mineral development, the state-owned resources under the river would be lost revenue for the state.

Governor Schweitzer asked if there are setbacks for drilling rig locations in place on riverbeds?

Ms. Sexton said that the DNRC has stipulations attached to the leases to mitigate adverse effects in situations where there might be oil and gas development. There are stipulations specific to this section of the river that require a one-quarter mile setback on both sides of the river for any drilling-related activity or new road construction.

Governor Schweitzer asked how many of the 3925 acres are associated with the rivers, and how many are full sections?

Ms. Sexton stated that of the 28 leases, five full sections will be impacted. There can be no surface occupancy for riverbeds, so the bed of the river cannot be drilled (per statute). Any state lands adjacent to the river would be a set back one quarter mile on each side of the river.

Governor Schweitzer asked if there was a percentage estimate of actual riverbed area affected by this sale, and how much private land was already leased to allow for the potential of drilling and exploration?

Ms. Sexton stated that there has been a lot of activity on private lands in this area, but the DNRC did not know how much exploration has occurred on private lands.

Governor Schweitzer asked if the state owned less than ten percent of the total area?

Ms. Sexton said yes.

Tom Anacher, Montana Trout Unlimited Chairman, stated that TU appreciated the DNRC's address of riverside development and setback stipulations, but is not confident that these measures are enough. Interests in developing mineral resources are developing very quickly, and coming into contact with other areas of interest and other areas of resource value. TU requested that 12 percent of the leases be withdrawn at for further consideration and evaluation of potential impacts on the river corridors and wildlife. TU understands that the Land Board has a fiduciary responsibility to maintain the school trusts, but believes the responsibility must be balanced against giving additional consideration to the future environmental costs of development. That includes stipulating setbacks be greater than one-quarter mile. Mr. Anacher noted that the BLM is considering one-half mile setbacks.

Dan Vermillion, Livingston, Montana, stated that Montana's administration has done well at balancing resource development with resource protection. He suggested postponing these tracts for several months so that further evaluation of impact and development of adjacent private lands might be studied. It is unlikely that resource development on adjacent lands would be developed in the brief span of time further evaluations are being considered. He urged the board to develop a method of cooperation with private landowners to create a resource development strategy that factors in consideration for existent economy and recreation.

Kerry Fee, Joe Brooks Chapter President, Trout Unlimited, expressed displeasure at the methods used by the DNRC to notify the public of upcoming lease sales. He asked the department to consider the many tributaries of these rivers when considering setback stipulations.

David Galt, Montana Petroleum Association Executive Director, expressed support to the DNRC for the process it undertakes in balancing preservation with development. There are 155 leases in riverbed acreage across the state belonging to state trust lands. Thirteen of the leases are producing and have generated four million dollars in revenue for school trust lands over the past ten years.

Michael Gibson, Montana Trout Unlimited, expressed appreciation to the DNRC for listening to the concerned parties, the setback stipulations, and other measures. Additional measures should be examined to ensure the protection of these areas. He urged that some tracts be deferred until there was additional time to discuss how best to protect this resource.

Sharon Sweeny-Fee, Joe Brooks Chapter, Trout Unlimited, stated the economic analysis of revenues gained from the lease sale would be negated by the great amount of public outcry in opposition to the sale.

Ms. Sexton said the DNRC recognizes it has very isolated ownership outside of the riverbeds. There will be a meeting in Livingston with various interest groups, land owners, county commissioners and the BOGC on September 11, 2008, to discuss broader opportunities for guidelines that may be adopted by private landowners, federal entities, and the DNRC.

Governor Schweitzer noted that the state of Montana owns only about six percent of the surface acres in the state.

SEPTEMBER OIL AND GAS LEASE SALE: BRIDGER CANYON TRACTS

Bob Sands, spokesman for the residents of Bridger Canyon, stated that his home is adjacent to one of the parcels near the other two offered in the lease sale. Mr. Sands requested that these three parcels be deferred from the sale until there can be further discussion. The

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alternative solution he offered was returning the process to the beginning. This would allow for additional public input for the duration of the process, as the notice and opportunity for public comment was insufficient.

Currently there is no commercial activity in the Bridger Canyon area. Specific private zoning rules and private covenants are in place to preserve the beauty of the area. If the tracts are placed for auction, the Bridger Canyon residents will bid to acquire the leases for the purpose of non-development.

Public notice was printed in the Helena, Missoula, Billings and Great Falls newspapers, but was not posted in Bozeman and Belgrade. The residents of Bridger Canyon were not informed of the proposed lease sale until the end of the public comment period. The residents of Bridger Canyon would like to work with the DNRC, the Land Board, and interested parties to come to an acceptable resolution.

Paul Bockus, Bridger Pines Homeowners Association President, asked the Land Board to consider the fact that Bridger Canyon was already environmentally compromised by the Gallatin II Land Exchange.

Deb Stratford, Bridger Canyon Property Owners Association board member, asked to have the parcels deferred to give the residents the opportunity to explore all of their options since the Bozeman and Belgrade newspapers did not print the public notice information until July 29 and 30 (respectively). During communications with Director Sexton, a land exchange was suggested as a possible option. The residents of Bridger Canyon would like additional time to determine other possible courses of action, and request that the three parcels be deferred.

Governor Schweitzer asked what was the DNRC's process for public notice.

Ms. Sexton stated there are two phases for public notice. The leasing phase statutorily requires the DNRC to print notice in publications with statewide circulation. The DNRC also sends out a press release to all newspapers. Currently the DNRC is researching additional ways to notify local land owners. During the phase prior to any surface activity, the DNRC conducts an environmental assessment.

The DNRC has added stipulations to the language of the leases for these parcels, just as it has for other sensitive areas, such as the Rocky Mountain Front area or sage grouse habitats. The stipulations attached to these three tracts are for sensitive areas and/or service occupancy stipulations. The stipulations allow the DNRC to deny surface activity if it is deemed advisable. The DNRC has discussed the option of a land exchange with the Bridger Canyon Homeowners Association. Ms. Sexton noted that the DNRC cannot—by statute—permanently dispose of mineral interests, except through private exchange.

Governor Schweitzer asked if the state-owned resources would be depleted if the Bridger Canyon leases were deferred for a period of time and the adjacent land had been leased for development in the interim.

Ms. Sexton said yes and added that the state-owned land in Bridger Canyon is adjacent to federal land, which also has the potential to be leased and developed.

Governor Schweitzer asked the representatives from Bridger Canyon if the mineral rights on the land was privately owned or had been leased?

Mr. Sands stated that as the president of the Teepee Ridge Homeowners Association, he had individually purchased all the available mineral rights and reattached them to the surface rights. All of residents of Teepee Ridge are bound by covenants prohibiting the use of lands

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or roads for commercial purposes. All homeowners in Bridger Canyon are subject to Bridger Canyon zoning regulations. Those who individually own their mineral rights may state that they are not subject to the zoning, but there would be substantial restriction under the zoning rules.

Governor Schweitzer asked if the DNRC attempted to contact neighboring landowners for this sale?

Ms. Sexton stated the DNRC contacts the adjacent property owners during the drilling EA process, and is currently exploring ways to streamline individual notifications during the drilling process. The DNRC works with over 1000 leases annually under restricted timelines. Efficient methods of communication are still being developed. Often in areas with a great deal of activity (i.e. Richland County), the local populace tends to be aware of the activity. That is often how the DNRC learns about parcels that may potentially be nominated.

Ms. Sexton said that the state owns greater than one million acres of mineral rights underneath surface land that has been sold

Governor Schweitzer asked would the homeowners be able to coordinate within the time frame of the lease sale if they wished to participate in a land exchange, or might it benefit them to bid on the lease at the sale.

Ms. Sexton stated the exchange process would take one to two years. Leasing the parcels as a group would be beneficial as it would allow the ten years of the lease to organize and coordinate a land exchange.

Mr. Sands stated that Teepee Ridge owns nearly 1000 acres (formerly the Newhall Ranch), mainly outside of Section 16 . The mineral rights are mainly owned by the land owners.

Governor Schweitzer asked if the zoning laws would prohibit development if an individual sold the mineral rights to a particular section?

Mr. Sands stated that there are covenants prohibiting the use of private roads for that purpose. He reiterated that the homeowners would like additional time to explore different avenues of protection as well, but are prepared to bid for and buy the leases, if necessary.

Ms. Sexton stated that should the homeowners bid and buy the leases, it would offer adequate time to explore alternate avenues of protection for their lands.

Governor Schweitzer said that if an individual chose to lease to a drilling company, nothing in state law prohibits that company from finding alternate access to adjacent resources.

Wendy Cochrane, Teepee Ridge resident, said the zoning laws enacted in the 1970s prohibit any commercial activity other than agriculture.

Martha Biel, Bozeman Pass resident, stated that in May 2006 the area became a 101 zoning district as a result of residents trying to repel coal bed methane drilling in the district. The 101 zoning contains a series of very strong mitigations.

Ms. Sexton stated the mitigations mentioned by Ms. Biel are consistent with the mitigations and stipulations imposed on the parcels by the DNRC. The DNRC retains the right to determine if surface disturbance should be allowed.

Governor Schweitzer asked would a drilling company be required to drill horizontally, or by some other method?

Ms. Stratford stated the intent of the zoning regulation was not to prohibit oil and gas exploration, but to ensure that it was done in an environmentally safe manner. She referenced the Gallatin II land exchange as an example of the land use being environmentally degrading, with three streams being listed as "impaired". Drilling is currently occurring only in the Shields Valley. The only sections that are actively being pursued for exploration are the three sections of state lands, and that might be the impetus for other landowners to consider leasing the mineral rights.

Governor Schweitzer asked if only the state-owned sections are being considered for leasing?

Ms. Sexton stated yes, but there are also federally owned mineral rights in the area.

Governor Schweitzer asked if the DNRC would work with the Land Board between now and September to explore options?

Ms. Sexton agreed.

Mr. Morrison stated that while he understands the DNRC notified the public through as mandated, he believes the Bozeman Chronicle should have been used for notice due to the proximity of the area. Mr. Morrison recommended deferring these tracts until a later date.

Ms. McCulloch informed the audience that in ten years and five legislative sessions, \$47 million of new money has been directed toward the school system. Only the last two legislative sessions directed additional monies to the previously lean school budget.

Governor Schweitzer said that regardless of school trust revenues generated by school trust lands activity, the amount of funds allocated to the school system is at the discretion of the legislature.

Mr. Johnson asked for clarification as to what the process will be between the department and the Land Board.

Governor Schweitzer suggested that Director Sexton and staff discuss the available options and then inform the staff of the Land Board members.

Ms. Sexton agreed.

George Watson, Bridger Canyon resident, stated that due process for public comment faltered in this instance. More time is needed to work out a solution that meets the interests of the trust and the citizens.

FOREST SERVICE/PLUM CREEK/RECIPROCAL ACCESS AGREEMENTS

Governor Schweitzer requested a summary of the issues concerning reciprocal access and the discussions between Plum Creek and the Forest Service.

Ms. Sexton stated that there are some locations where the state does not have legal access to state owned land. The DNRC tries to work with neighboring landowners for the implementation of reciprocal access agreements. Generally the DNRC gains four miles for every mile that is given up and often gains public access as well. The reciprocal access process is multi-tiered and factors in public considerations, environmental impacts, and the mandate to generate long term, sustainable revenues for the trusts.

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Jim Jenson, Montana Environmental Information Center Executive Director, stated that the MEIC has expressed concerns about the details negotiated in reciprocal access agreements. MEIC appreciates the DNRC's and Land Board's participation in helping to ensure state lands are not used for rural subdivisions, which have created financial and other problems for state and local governments.

A disclosure written in 1999 stated that Plum Creek's purpose in requesting this reciprocal access agreement was to develop a subdivision on McGregor Lake, thus necessitating 60 feet of access rather than the 40 feet typically used for timber access. More recent reciprocal access agreements do not still have this disclosure, despite reciprocal access agreements often being for 60-foot wide roads.

Ms. Sexton stated that there were existing cabins on McGregor Lake and that the DNRC felt a 60-foot road easement was necessary to accommodate law enforcement and emergency vehicles, if needed.

Governor Schweitzer noted that the current Land Board set a new precedent by including the caveat in reciprocal access agreements that should development occur, there will be a one percent fee associated with that land in perpetuity, each time the land is exchanged; thus maintaining a continuous flow of revenue to the state. In 1999 the Land Board decided to standardize all timber harvesting easements to 60 feet rather than having varying widths. Ms. Sexton stated that were once easements designated as "for all lawful purposes", but the DNRC no longer authorizes such easements.

Motion to adjourn made by Mr. Johnson. Seconded by Ms. McCulloch. Carried unanimously.